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United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE INSECTICIDE ACT

[Given pursuant to section 4 of the Insecticide Act]

1341-1356

[Approved by the Acting Secretary of Agriculture, Washington, D. C., January 12, 1935]

1341. Adulteration and misbranding of De-Germ. U. S. v. Century Chemical Products Co. Plea of guilty. Fine, \$200. (I. & F. no. 1629. Sample no. 27275-A.)

This case was based on a shipment of an insecticide and fungicide that contained smaller proportions of the active ingredients than declared on the label, and that failed to declare the inert ingredient present. The labeling contained false and misleading claims regarding its purifying, deodorizing, germicidal, and disinfecting properties, and as to its effectiveness in the control of moths.

On July 1, 1933, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Century Chemical Products Co., a corporation, Detroit, Mich., alleging shipment by said company, on or about October 24, 1932, from the State of Michigan into the State of Pennsylvania, of a quantity of De-Germ which was an adulterated and misbranded insecticide and fungicide within the meaning of the Insecticide Act of 1910.

It was alleged in the information that the article was adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that it was labeled, (can) "Essential Oils 4.00% Sodium and Potassium Oleates (Soaps) 2.50% Methyl Aldehyde Solution (Liquor Formaldehyde U. S. P.) 10.00%", whereas it contained essential oils in a proportion much less than 4 percent, sodium and potassium oleates (soaps) in a proportion much less than 2.50 percent, and methyl aldehyde solution (Liquor Formaldehyde U. S. P.), in a proportion much less than 10 percent.

Misbranding was alleged in that the above-quoted statements on the can label were false and misleading, and in that by reason of the said statements the article was labeled and branded so as to deceive and mislead the purchaser.

Misbranding was alleged for the further reason that the following statements on the can label, "De Germ The Perfect Purifier Disinfectant * * * Germicide * * * Helps prevent contagious disease. Try a few drops in the bath, the washing machine and the dishpan or on your handkerchief * * * Purifies and protects. An especially effective germicide and disinfectant * * * spraying or atomizing the De Germ makes a positive, full disinfecting and deodorizing contact with all exposed surfaces. By gaseous contact: The powerful Formaldehyde when sprayed or atomized, forms a penetrating gas which thoroughly disinfects crevices and hidden surfaces. * * * Eliminates immediately—odors of cooking, tobacco, paint, as well as other objectionable odors. * * * Spray into the air freely during first few applications—later only as seems necessary to destroy all odors. * * * Spray under seat cushions, into corners, or into closets as a moth preventive", were false and misleading, and by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, since the article, when used as directed, would not act as a perfect purifier, would not purify and protect under all conditions, would not act as an effective germicide and disinfectant, would not help prevent all contagious diseases, would not produce a full disinfecting contact with all exposed surfaces, would not produce the penetrating disinfectant action, would not eliminate all objectionable odors, would not destroy all odors, would not prevent moths, and would not prevent moth injury.

Misbranding was alleged for the further reason that the article consisted partially of an inert ingredient, water, i. e., a substance that does not prevent, destroy, repel, or mitigate insects or fungi, and the name and percentage amount of the inert substance so present therein were not stated plainly and correctly, or at all, on the can label; nor, in lieu thereof, were the name and percentage amount of each substance or ingredient of the article having insecticidal or fungicidal properties, and the total percentage of the inert substance present in the article stated plainly and correctly on the can label.

On April 28, 1934, a plea of guilty was entered on behalf of the defendant company, and on July 12, 1934, a fine of \$200 was imposed.

M. L. WILSON, *Acting Secretary of Agriculture.*

1342. Adulteration and misbranding of Bromo Paper. U. S. v. 14 Cases of Bromo Paper. Default decree of condemnation, forfeiture, and destruction. (I. & F. no. 1657. Sample nos. 45001-A, 45002-A, 45003-A.)

This case involved a product labeled to convey the impression that it contained a compound of bromine and chloral, and that it would disinfect and deodorize. Analysis showed that it contained no bromo chloralum (compound of bromine and chloral); tests of the article showed that it would not disinfect or deodorize.

On October 2, 1933, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 cases, each containing 50 boxes of Bromo Paper, at San Francisco, Calif., alleging that the article had been shipped in interstate commerce in various shipments, on or about February 28, April 22, and August 1, 1933, by the Diamond Mills Paper Co., from Saugerties, N. Y., and charging adulteration and misbranding in violation of the Insecticide Act of 1910.

The article was alleged to be adulterated in that other substances had been substituted for bromo chloralum.

Misbranding was alleged in that the statements (shipping case), "Bromo Carbolic Medicated Paper" and (box label and leaflet) "The properties of Bromo Chloralum and Carbolic Acid as disinfectants and curatives are well known and the investor has after a series of experiments succeeded in so embodying their properties with the pulp of this paper as to render its use * * * a thorough deodorizing and disinfectant of the water closet", were false and misleading and tended to deceive and mislead the purchaser, since it did not contain bromine and chloral compound and would not disinfect or deodorize water closets or act as a disinfectant in any way. The libel further charged a violation of the Food and Drugs Act reported in notice of judgment no. 22954 published under that act.

On September 27, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered, and destruction of the product was ordered.

M. L. WILSON, *Acting Secretary of Agriculture.*

1343. Misbranding of Cedar Vaporator and Mothex Mothproofing Liquid. U. S. v. Roseth Chemical Division, Inc. Plea of guilty. Fine, \$25. (I. & F. no. 1679. Sample nos. 32389-A, 34851-A.)

This case was based on interstate shipments of products intended for use in the control of moths. Tests of the articles showed that they would not afford the moth protection claimed. The Mothex Mothproofing Liquid listed sodium naphthalene sulphonate as an active ingredient, whereas it is not an active ingredient when used for the purpose intended.

On June 22, 1934, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Roseth Chemical Division, Inc., Brooklyn, N. Y., alleging shipment by said company in violation of the Insecticide Act of 1910, on or about April 5, 1933, from the State of New York into the State of Pennsylvania, of a quantity of Mothex Mothproofing Liquid, and on or about April 10, 1933, from the State of New York into the State of New Jersey, of a quantity of Cedar Vaporator, which were misbranded insecticides within the meaning of the said act.

The information charged misbranding of the said Cedar Vaporator in that the statements, (bottle) "Vaporator fortified with Paradichlorobenzene kills moths and their larvae Gives cedar protection in closed closets the year around" (carton) "Cedar Vaporator kills moths * * * Gives cedar protection to closed closets the year around Kills moths and moth larvae", (circular) "In-

stantly—converts any closets to a moth proof Cedar Closet Cedar Vaporator The Cedar Vaporator is an attractive non-spilling and self-acting device that will instantly convert any closet into a year 'round Mothproof Cedar Closet, and a safe place for your clothes. It overcomes moth hazards quickly and easily and gives you 12 months clothes protection. The Cedar Vaporator consists of a bottle of concentrated moth-proofing vapor in liquid form inverted in an attractive sturdy bronzed metal container. The container holds this concentrated liquid from which powerful moth repellent vapors are emitted. Simply attach the Cedar Vaporator to the baseboard of your closet and keep doors closed to confine vapors. Since these vapors will not cling to clothes, garments can be worn immediately as desired without the customary airing * * * A Year of Clothes protection", were false and misleading, and that by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, since the article, when used as directed, would not kill moths and their larvae, would not protect against moths the year round, would not make any closet mothproof, would not overcome moth hazards or protect clothes and the liquid contained in the bottles was not a moth repellent and the article would not protect clothes for one year.

Misbranding of the Mothex Mothproofing Liquid was alleged for the reason that the statements on the bottle labels and cartons, "Mothex Mothproofing Liquid * * * One thorough application will mothproof woollens for an entire year", "Mothex Mothproofing Liquid will protect all woolen articles such as: Knit goods, draperies, blankets, carpets, rugs, sweaters, clothing, upholstered furniture, woolen wear, baby woollens," "Active Ingredients Sodium Fluoride—.75% Sodium Naphthalene Sulfonate—.25% Inert Ingredients 99.00%", were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since the article, when used as directed would not mothproof woollens for an entire year, would not protect the articles listed on the labels against moths, and the sodium naphthalene contained in the article was not an active ingredient, but was an inert ingredient.

On September 21, 1934, a plea of guilty was entered to both counts of the information, the court suspended sentence on count 1, and imposed a fine of \$25 on count 2.

M. L. WILSON, *Acting Secretary of Agriculture.*

1344. Misbranding of Rabbit Supto. U. S. v. Supto Manufacturing Co. Plea of guilty. Fine, \$10 and costs. (I. & F. no. 1681. Sample no. 36618-A.)

This case was based on a shipment of Rabbit Supto, the labels of which bore false and misleading claims relative to its germicidal, disinfectant, and deodorant properties, also false and misleading claims that it was nonpoisonous and that its action was permanent.

On April 6, 1934, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Supto Manufacturing Co., a corporation, Des Moines, Iowa, alleging shipment by said company in violation of the Insecticide Act of 1910, on or about March 15, 1933, from the State of Iowa into the State of Illinois, of a quantity of Rabbit Supto, which was a misbranded insecticide and fungicide within the meaning of said act.

It was alleged in the information that the article was misbranded in that the statements, "Rabbit Supto is the greatest non-poisonous germicide, disinfectant and deodorant ever produced * * * Its action is positive and permanent and its penetrating ability unequalled. Directions for Use—As a general disinfectant, once a week spray the drain boards, and about once a month give the hutch a thorough spraying. Remove the rabbits for about 24 hours to allow Supto to completely penetrate into floor", borne on the can label, were false and misleading, and by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, since it was not the greatest germicide and disinfectant and deodorant ever produced, it was not nonpoisonous, its action was not permanent, and, when used as directed, it would not act as a disinfectant.

The information also charged a violation of the Food and Drugs Act, reported in notice of judgment No. 22609 published under that act. On May 18, 1934, a plea of guilty to both charges was entered on behalf of the defendant company, and the court imposed a fine of \$10 on each of the two counts, together with costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

1345. Adulteration and misbranding of Cresolis Comp. U. S. v. The Azee Soap Co., Inc. Plea of guilty. Fine, \$150. (I. & F. no. 1694. Sample no. 65956-A.)

This case involved a product labeled "Cresolis Comp." that fell below the requirements of the United States Pharmacopoeia for liquor cresolis compositus. The article contained undeclared inert ingredients.

On June 22, 1934, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Azee Soap Co., Inc., Brooklyn, N. Y., alleging shipment by said company, on or about August 18, 1933, from the State of New York into the State of New Jersey, of a quantity of Cresolis Comp. which was an adulterated and misbranded fungicide within the meaning of the Insecticide Act of 1910.

The article was alleged to be adulterated in that the statement, "Cresolis Comp.", borne on the can label, represented that it contained the ingredients and the proportions of ingredients specified for liquor cresolis compositus in the United States Pharmacopoeia, whereas the strength and purity of the article fell below the professed standard and quality under which it was sold, in that it did not contain the ingredients and the proportions of ingredients specified for liquor cresolis compositus in the said pharmacopoeia. Adulteration was alleged for the further reason that fatty material other than linseed oil, tar acids other than cresol, and water had been substituted for the ingredients specified in the pharmacopoeia for liquor cresolis compositus.

Misbranding was alleged for the reason that the statement, "Cresolis Comp.", borne on the can label, was false and misleading, and that by reason of the said statement the article was labeled so as to deceive and mislead the purchaser, since the said statement purported that the article contained the ingredients and the proportions of ingredients specified for liquor cresolis compositus in the pharmacopoeia, whereas it did not. Misbranding was alleged for the further reason that the article consisted partially of inert substances, water and glycerin, i. e., substances that do not prevent, destroy, repel, or mitigate fungi (bacteria) and the name and percentage amount of the said inert substances so present therein were not stated plainly and correctly, or at all, on any label borne on or affixed to the can containing the article; nor, in lieu thereof, were the name and percentage amount of each substance or ingredient of the article having fungicidal (bactericidal) properties, and the total percentage of the inert substances present therein stated plainly and correctly, or at all, on any label on the cans.

On July 11, 1934, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$150.

M. L. WILSON, Acting Secretary of Agriculture.

1346. Misbranding of moth cake. U. S. v. 2 Gross of Moth Cake. Default decree of condemnation, forfeiture, and destruction. (I. & F. no. 1697. Sample no. 67246-A.)

This case involved an interstate shipment of moth cakes that weighed materially less than 4 ounces, the weight declared on the label.

On April 23, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2 gross of moth cakes at Bloomfield, N. J., alleging that the article had been shipped in interstate commerce, on or about February 26, 1934, by the Perfum Chemical Co., from New York, N. Y., and charging misbranding in violation of the Insecticide Act of 1910.

The article was alleged to be misbranded in that the statement on the label, "Net Weight 4 Oz.", was false and misleading and tended to deceive and mislead the purchaser.

On July 10, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed.

M. L. WILSON, Acting Secretary of Agriculture.

1347. Misbranding of Fleadex. U. S. v. W. B. Stevens & Son. Plea of guilty. Fine, \$25. (I. & F. no. 1699. Sample no. 65976-A.)

This case involved an insecticide that was not labeled in accordance with the requirements of the law with a statement of the inert ingredients present in the article.

On August 11, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the

district court an information against W. B. Stevens & Son, a corporation, New York, N. Y., alleging shipment by said company in violation of the Insecticide Act of 1910, on or about November 20, 1933, from the State of New York into the State of New Jersey, of a quantity of Fleadex, which was a misbranded insecticide within the meaning of the said act.

It was alleged in the information that the article was misbranded in that it consisted partially of an inert substance, water, i. e., a substance that does not prevent, destroy, repel, or mitigate insects, and the name and percentage amount of the said inert substance present in the article were not stated plainly and correctly, or at all, on the label affixed to the can containing the article; nor, in lieu thereof, were the name and percentage amount of each and every substance or ingredient of the article having insecticidal properties, and the total percentage of the inert substances present therein, stated plainly and correctly, or at all, on the said label.

On August 20, 1934, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$25.

M. L. WILSON, *Acting Secretary of Agriculture.*

1348. Adulteration and misbranding of Mothgard Camphor Pocket Refills. U. S. v. 11 Dozen Mothgard Camphor Pocket Refills. Default decree of condemnation, forfeiture, and destruction. (I. & F. no. 1700. Sample no. 69811-A.)

This case involved a product labeled, "Camphor Pocket Refills", intended for use in the control of moths. Examination showed that it contained no camphor and would not afford the moth protection claimed.

On April 26, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 dozen Mothgard Camphor Pocket Refills at Newark, N. J., alleging that the article had been shipped in interstate commerce, on or about March 29, 1934, by the Gold Star Novelty Co., from New York, N. Y., and charging adulteration and misbranding in violation of the Insecticide Act of 1910.

It was alleged in the libel that the article was adulterated in that naphthalene had been substituted completely for camphor.

Misbranding was alleged for the reason that the following statements in the labeling were false and misleading and tended to deceive and mislead the purchaser, since the product contained no camphor and would not kill moth larvae under all conditions: "Camphor Pocket * * * Camphor fumes will kill moth larvae * * * Mothgard Camphor Pocket hang in closet, wardrobe bags, place in drawers, chests, trunks, camphor fumes will kill all moth larvae."

On August 25, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered, and destruction of the product was ordered.

M. L. WILSON, *Acting Secretary of Agriculture.*

1349. Misbranding of Antiformin. U. S. v. The American Antiformin Co. Plea of guilty. Sentence suspended. (I. & F. no. 1703. Sample no. 43747-A.)

This case involved a fungicide labeled to convey the impression that it was sanctioned by this Department, whereas it had not been so sanctioned. The requirement of the law that the inert ingredients present in the article be declared on the label was not complied with.

On June 22, 1934, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the American Antiformin Co., a corporation, Brooklyn, N. Y., alleging shipment by said company in violation of the Insecticide Act of 1910, on or about October 16, 1933, from the State of New York into the State of New Jersey, of a quantity of Antiformin, which was a misbranded fungicide within the meaning of said act.

It was alleged in the information that the article was misbranded in that the statement on the carboy containing the article, "Guaranteed under the Pure Food and Drugs Act June 30, 1906 Serial No. 27668", was false and misleading, and in that the article was labeled so as to deceive and mislead the purchaser, since the said statement represented that the article had been sanctioned by this Department, whereas it had not been sanctioned by this Department. Misbranding was alleged for the further reason that the article consisted partially of inert substances, i. e., substances other than sodium hypo-

chlorite, which said substances do not prevent, destroy, repel, or mitigate fungi (bacteria), and the name and percentage amount of each and every inert substance present in the article were not stated plainly and correctly, or at all, on the label affixed to the carboy; nor, in lieu thereof, were the name and percentage amount of each substance or ingredient of the article having fungicidal (bactericidal) properties, and the total percentage of the inert substances present therein, stated plainly and correctly, or at all, on the label.

On September 28, 1934, a plea of guilty was entered on behalf of the defendant company, and the court ordered that sentence be suspended.

M. L. WILSON, *Acting Secretary of Agriculture.*

1350. Misbranding of Vapoo. U. S. v. 55 Cans and 60 Cans of Vapoo. Default decree of condemnation, forfeiture, and destruction. (I. & F. no. 1707. Sample no. 69812-A.)

This case involved a shipment of Vapoo, an insecticide and fungicide within the meaning of the law. Examination showed that the article would not afford the moth protection, and did not have the disinfecting properties claimed in the labeling.

May 10, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 55 large and 60 small cans of Vapoo at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about April 10, 1934, by the Vapoo Products Co., from New York, N. Y., and charging misbranding in violation of the Insecticide Act of 1910.

It was alleged in the libel that the article was misbranded in that the statements in the labeling, (cans) "The Vapoo Shampoo for rugs and upholstery * * * disinfects and mothproofs in one operation", and (circular) "Mothproofs and disinfects", were false and misleading and tended to deceive and mislead the purchaser.

On August 25, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered, and destruction of the product was ordered.

M. L. WILSON, *Acting Secretary of Agriculture.*

1351. Adulteration and misbranding of Acme Chlorinated Lime. U. S. v. 51 Cases and 22 Cases of Acme Chlorinated Lime. Default decree of condemnation, forfeiture, and destruction. (I. & F. no. 1711. Sample nos. 62335-A, 62336-A.)

This case involved two shipments of chlorinated lime that contained a smaller proportion of available chlorine and a larger proportion of inert ingredients than declared on the labels. One of the lots was labeled with false and misleading claims as to its purifying, sterilizing, and disinfecting properties.

On May 29, 1934, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 51 cases and 22 cases of Acme Chlorinated Lime at Baltimore, Md., alleging that article had been shipped in interstate commerce, on or about December 23, 1930, and April 25, 1933, respectively, by B. T. Babbitt, Inc., from Albany, N. Y., and charging adulteration and misbranding in violation of the Insecticide Act of 1910.

The article in both lots was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, since it was labeled, (Can) "Active Ingredients Available Chlorine not less than 24%, Inert Ingredients not more than 76%", whereas it contained available chlorine in a proportion much less than 24 percent, and inert ingredients in a proportion much greater than 76 percent.

Misbranding of both lots was alleged for the reason that the above-quoted statements from the labels were false and misleading, and that by reason of the said statements the article was labeled so as to deceive and mislead the purchaser. Misbranding of the lot shipped December 23, 1930, was alleged for the reason that the following statements on the can label, "For Purifying water—Acme Chlorinated Lime may be used to sterilize drinking water and render it perfectly safe for use. Two fluid drams or two teaspoonfuls of the stock hypochlorite to a barrel (50 gallons) of water will render water perfectly safe, and free from all disease germs. To Sterilize Small Quantities of Water in the household Dissolve in a pint of water half a teaspoonful of Acme Chlorinated Lime by first rubbing the powder with a little water to a cream-like mass, and then adding more water to make up one pint. (For measuring the half teaspoonful, place a moderately heaped teaspoonful on a piece of paper and

divide in two equal parts). Of this solution, one tablespoonful will sterilize 10 gallons of water, or 36 drops one gallon, which will render any water pure and wholesome. For one quart add 9 drops of the solution, which should be freshly prepared every day. * * * Disinfects * * * For flushing barns, stables, troughs, etc. One pound Acme Chlorinated Lime in about 600 gallons water. * * * For * * * purifying vaults, water closets, cesspools, drains, cellars, etc.", were false and misleading, and by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, since they represented that the article, when used as directed, would sterilize drinking water of all disease germs, would render all waters pure and wholesome, would disinfect barns, stables, troughs, etc., would purify vaults, cesspools, drains, etc., whereas the article, when used as directed, would not be effective for the said purposes.

On July 6, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered, and destruction of the product was ordered.

M. L. WILSON, *Acting Secretary of Agriculture.*

1352. Misbranding of Chlorofectant. U. S. v. The American Oil & Disinfectant Corporation. Plea of guilty. Fine, \$200. (I. & F. no. 1712. Sample no. 58314-A.)

This case was based on a shipment of "Chlorofectant", a fungicide within the meaning of the law, which was represented to be nonpoisonous and safe. Examination showed that the article contained certain ingredients in a proportion that rendered it poisonous, also that it did not have the sterilizing properties claimed.

On June 27, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the American Oil & Disinfectant Corporation, organized under the laws of New York and doing business in New Jersey, alleging shipment by said company, on or about March 3, 1934, from the State of New Jersey into the State of Massachusetts, of a quantity of "Chlorofectant", which was a misbranded fungicide within the meaning of the Insecticide Act of 1910.

It was alleged in the information that the article was misbranded in that the statements, "Non-Poisonous * * * Safe * * * Sterilizer * * * Swimming Pool Sterilization", borne on the label affixed to the carboy containing the article, were false and misleading, and that by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, since it was not nonpoisonous, would not act as a sterilizer, and would not sterilize swimming pools.

On August 24, 1934, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$200.

M. L. WILSON, *Acting Secretary of Agriculture.*

1353. Misbranding of V2 Moth Proofing Compound. U. S. v. 16 Quart Bottles and 22 Pint Bottles of V2 Moth Proofing Compound. Default decree of condemnation, forfeiture, and destruction. (I. & F. no. 1716. Sample no. 71096-A.)

This case involved an insecticide labeled with false, misleading, and deceptive claims relative to its efficacy in the control of moths and moth larvae. It was also claimed for the article that it was nonpoisonous and harmless, whereas it contained ingredients that might be poisonous or harmful.

On June 19, 1934, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16 quart bottles and 22 pint bottles of V2 Moth Proofing Compound at Portland, Oreg., consigned March 28, 1934, alleging that the article had been shipped in interstate commerce, by the DePree Co., from Holland, Mich., and charging misbranding in violation of the Insecticide Act of 1910.

It was alleged in the libel that the article was misbranded in that the following statements on the bottle label and in the circular, were false and misleading, and by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, since, when used as directed, it would not furnish protection against moths and moth larvae: (Label and circular) "V2 A Vermi-Tox Product Moth Proofing Compound 2 Years Protection against Moths and Moth Larvae if applied to wool or fur according to directions * * * A safe, economical positive, complete, and lasting protection against moths and

their larvae * * * To be used as a Spray Only; Directions First brush the article vigorously, taking care to get the spray into the non-exposed surfaces (Seams, pockets, etc.). Spray long enough to make the article quite moist. Saturate furniture coverings and infested areas. Then allow to evaporate. V2 Moth Proofing Compound (A Vermi-Tox Product) is suitable for use on any fabric, or any substance of animal origin:—furs, skins, rugs, carpets, draperies, suits, coats, bathing suits, sweaters, hats, spats, upholstery, etc. It impregnates articles of this type with a durable, harmless chemical which is deadly to moths", (circular) "But now modern science has developed a product which does bring relief from worry * * * V2 has changed the whole mental picture of the ever-vigilant housewife. While moths cannot be stopped from laying eggs, the materials which they select for their nests can now be harmlessly and inexpensively treated in such a manner that the hungry moth-worms will die of starvation before they will eat one mouthful. If your woollens and furs have been properly treated with V2, moths may lay their eggs therein as usual, but when the offspring is hatched, it finds that the Food-Nest so carefully selected by its proud parent, has become a diet of Poison. Result? No Dinner for hungry moth-worm * * * No Damage to your Hudson Seal. * * * One Safe Product for All Materials * * * It is the all-in-one product for Moth Proofing. * * * Moth-worms cannot eat any material that is thoroughly impregnated with V2. * * * It is harmless to use, yet it affords positive, complete, lasting, worry-proof protection against the ravages of moth-worms for at least two years, if applied to wool or fur, according to directions. Tested by Independent Laboratories Quoting from a report of the United States Testing Laboratories, the official testing house for the Silk and Wool Association of America: 'It was found that only in the sample sprayed with your moth-proofing agent, that complete protection against moth larvae occurred. Further, no evidence of larvae activity was noted on the treated piece. The untreated material was badly attacked. The results indicated that your moth-proofing agent possesses considerable persistence and when applied to wool or fur, will adequately protect for a period of at least two years.' U. S. Testing Laboratories. Used as a spray, a comparatively small quantity of the liquid goes a long way in moth-proofing clothing. For carpets, rugs, upholstered furniture, draperies, etc., it is more economical to purchase the larger sizes, but you will be surprised to note how quickly, how easily and inexpensively you can safely impregnate all your seldom-used articles of clothing, as well as other potential moth-nests, with the safe and sure compound." Misbranding was alleged for the further reason that the statements in the labeling, (label and circular) "Non-Poisonous to animals and humans", (circular only) "Further V2 is Non-Poisonous * * * V2 is harmless to humans", were false and misleading, and by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, since it was not nonpoisonous to animals and humans and was not harmless to humans.

On August 17, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered, and destruction of the product was ordered.

M. L. WILSON, *Acting Secretary of Agriculture.*

1354. Misbranding of X-O Spray. U. S. v. Senex Chemical Co., Inc. Plea of guilty. Fine, \$25. (I. & F. no. 1718. Sample no. 21385-A.)

This case was based on an interstate shipment of X-O Spray intended for use as an insecticide. Examination showed that it would not be an effective control of certain insects for which it was recommended, when used as directed, and that it was not harmless and nonirritating as claimed.

On September 8, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Senex Chemical Co., Inc., Montgomery, N. Y., alleging shipment by said company in violation of the Insecticide Act of 1910, on or about June 3, 1933, from the State of New York into the State of New Jersey, of a quantity of X-O Spray which was a misbranded insecticide within the meaning of said act.

It was alleged in the information that the article was misbranded in that the following statements borne on the can label, "Horse Fly Spray * * * Horse Flies During haying time horses are very often troubled with the blood sucking horse fly. Great relief may be given by saturating a cloth with X-O and applying to the horses' hair. It is best to apply it when the hair is dry as the repelling qualities will last much longer * * * Directions * * *

For Winter Lice on Cows, Bulls, Calves and Horses * * * For Poultry Lice and Mites: Remove straw from nests and spray thoroughly. Spray perches and all cracks and crevices * * * For Repelling Flies * * * Cows sprayed twice a day according to these directions will be relieved from horn flies and other insects * * * Non-Irritating Does Not * * * Injure the Hair of Livestock * * * Harmless to humans or Cattle", were false and misleading, and by reason of the said statements the article was labeled and branded so as to deceive and mislead the purchaser, in that they represented that the article, when used as directed, would act as an effective repellent against horse flies, would, without repeated treatments, act as an effective control of winter lice on cows, bulls, calves and horses, would be effective against poultry lice, would act as an effective repellent against all varieties of flies; and would be effective against all insects indicated by the term "other insects", that it would not be irritating and would not injure the hair of livestock and that it would be harmless to humans and cattle; whereas the article, when used as directed, would not act as an effective repellent against horse flies, would not, without repeated treatment, act as an effective control of winter lice on cows, bulls, calves and horses, would not be effective against poultry lice, would not act as an effective repellent against all varieties of flies and would not be effective against all insects indicated by the term "other insects", and said article would be irritating to and would injure the hair of livestock, if applied heavily, and was not harmless to humans and cattle, since it was poisonous.

On October 8, 1934, a plea of guilty was entered on behalf of the defendant company, and the court imposed a fine of \$25.

M. L. WILSON, *Acting Secretary of Agriculture.*

1355. Misbranding of "Cedar Chest." U. S. v. 1 Cedar Chest. Default decree of condemnation, forfeiture, and destruction. (I. & F. no. 1724. Sample no. 67242-A.)

This case involved an alleged cedar chest which, upon examination, was found to be constructed of fiber board made of wood other than red cedar. The chest would not afford the moth protection claimed.

On August 10, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one "Cedar Chest" at New York, N. Y., alleging that the article had been shipped in interstate commerce, on or about April 4, 1934, by D. C. Kinnell & Co., Inc., from Montclair, N. J., and charging misbranding in violation of the Insecticide Act of 1910.

It was alleged in the libel that the article was misbranded in that the following statements appearing on the label were false, since it would not kill moths or furnish protection against moths under all conditions: "We guarantee that the moth-pruf cedar fibre board used in this product is made from the genuine aromatic cedar (*Juniperus virginiana*) that is used in making cedar chests. Beginning with the logs from selected cedar trees the sapwood, which contains no moth killing oils is removed * * * all of the natural cedar oils so deadly to moths are retained in the finished product * * *. To secure maximum protection * * * clean or thoroughly brush and air your clothes before storing in this moth-pruf cedar product. Pay special attention to seams, crevices and pockets. If care is taken it will give your clothes the moth protection you desire."

On September 12, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered, and destruction of the product was ordered.

M. L. WILSON, *Acting Secretary of Agriculture.*

1356. Adulteration and misbranding of Pestroy. U. S. v. 575 Cans of Pestroy. Default decree of condemnation and forfeiture. Product delivered to charitable organization. (I. & F. no. 1698. Sample nos. 67902-A, 67914-A.)

The product in this case, Pestroy, an arsenate of lead and Bordeaux mixture, contained materially less arsenate of lead than declared on the label, and it would be ineffective against certain insects for which it was recommended.

On April 25, 1934, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five hundred and

seventy-five 1-pound cans of Pestroy at Albany, N. Y., alleging that the article had been shipped in interstate commerce, on or about February 25, 1932 (1934) by the Sherwin-Williams Co., from Chicago, Ill., and charging adulteration and misbranding in violation of the Insecticide Act of 1910.

The article was alleged to be adulterated in that it fell below the professed standard or quality under which it was sold, namely "Total Active Ingredients 25.5% Arsenate of Lead 14.5% Total Arsenic (expressed as percentum of Metallic Arsenic) not less than 2.80% Inert Ingredients 74.5%", since it contained active ingredients in a proportion much less than 25.5 percent, arsenate of lead in a proportion much less than 14.5 percent, total arsenic, expressed as percentum of metallic arsenic, in a proportion much less than 2.80 percent, and inert ingredients in a proportion much greater than 74.5 percent.

The article was alleged to be misbranded in that the above-quoted statements on the label were false and misleading and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the following statements on the label were false and misleading and tended to deceive and mislead the purchaser: "Pestroy A combination of Arsenate of Lead and Bordeaux Mixture in Dry Form for Certain Fruit Tree and Garden Spraying * * * Directions For the control of certain chewing insects * * * of apple, pear, certain variety of plums, currant, gooseberry, grape and strawberry, also bean, beet, cabbage, cauliflower, eggplant, tomato, cucumber, watermelon, muskmelon, squash, use from 7 to 9½ pounds of Pestroy to 50 gallons of water or 7 to 9 level tablespoonfuls to 1 gallon of water. For potato, use 12 pounds of Pestroy to 50 gallons of water or 12 level tablespoonfuls to 1 gallon of water. Pestroy also may be applied as a dust against the insects named. When used in this way it should be applied just as it comes from the package and care taken to distribute it evenly over the plants."

On May 25, 1934, no claimant having appeared, judgment of condemnation and forfeiture was entered, and it was ordered that the labels be obliterated and the product offered for sale by the marshal. On July 20, 1934, the marshal having been unable to effect a sale, the product was ordered delivered to a charitable organization.

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